



FROM THE COMMITTEE ON MODEL CRIMINAL JURY INSTRUCTIONS

The Committee on Model Criminal Jury Instructions has adopted the following amended model criminal jury instructions, effective February 2016.

ADOPTED

The Committee has adopted amended instructions for use in cases pertaining to violations of the short-barreled shotgun and rifle statute, and exemptions thereto, both found in MCL 750.224b. The instructions are M Crim JI 11.16 (exemptions) and 11.30 (the substantive instruction).

M Crim JI 11.16 Exemption-Short-barreled Shotgun

(1) This law does not apply to a short-barreled shotgun or short-barreled rifle that is lawfully made, manufactured, transferred or possessed under federal law. The prosecutor has the burden of proving beyond a reasonable doubt that this exception does not apply.

Use Note

This instruction is to be given only when, as provided under MCL 776.20, the trial court determines that sufficient evidence was admitted at trial establishing that the firearm is exempt from the statutory prohibition. A short-barreled shotgun or rifle may be exempt if it is registered under the National Firearms Registration Act. 26 USC 5845. A defendant should be able to provide a Bureau of Alcohol, Tobacco, Firearms and Explosives registration form for making or transferring such weapons and/or tax or tax exempt registration forms to invoke this exception. 26 USC 5841; 27 CFR (Code of Federal Regulations) Part 478. Antique firearms or replicas of antique firearms, as defined under federal law in 18 USC 921(a)(16), are exempt. A “curio” or “relic” firearm listed by the United States Attorney General is also exempt; those are listed by the Bureau of Alcohol, Tobacco, Firearms and Explosives. See <http://www.atf.gov/files/publications/firearms/curios-relics/p-5300-11-firearms-curios-or-relics-list.pdf>. If it is claimed that the firearm is an antique, a replica of an antique, a curio, or a relic listed by the United States Attorney General, the court may wish to reference the applicable content of those materials when instructing the jury.

M Crim JI 11.30 Manufacture, Sale, or Possession of Short-barreled Shotgun

(1) The defendant is charged with the crime of making, manufacturing, transferring, or possessing a short-barreled shotgun or rifle. To prove this charge, the prosecutor must prove each of the following elements beyond a reasonable doubt:

(2) First, that the defendant knowingly [made / manufactured / transferred / possessed] a [shotgun / rifle].

(3) Second, that the [shotgun / rifle] was short-barreled, that is

[Choose (a) or (b):]

(a) the shotgun had one or more barrels less than 18 inches long or the shotgun was less than 26 inches long overall.

(b) the rifle had one or more barrels less than 16 inches long or the rifle was less than 26 inches long overall.¹

Use Note

¹ The definition of a short-barreled rifle and shotgun is found in MCL 750.222(k) and (l), respectively.